

In the Matter of)
)
Improving Public Safety Communications) WT Docket No. 02-55
in the 800 MHz Band)
)
To: The Commission

The Association of Public-Safety Communications Officials-International, Inc., International Association of Chiefs of Police, International Association of Fire Chiefs, International Municipal Signal Association, Inc., Major Cities Chiefs Association, Major County Sheriffs' Association, and National Sheriffs' Association (hereinafter "Public Safety Organizations") hereby submit the following Petition for Partial Reconsideration of the Commission's *Supplemental Order and Order on Reconsideration*, FCC 04-294, released December 22, 2004, (hereinafter "*Supplemental Order*") in the above-captioned proceeding.¹ Specifically, the Public Safety Organizations seek reconsideration of the FCC's decision to eliminate the frequency coordination requirement for license modifications necessary to implement 800 MHz rebanding.²

The Public Safety Organizations have been key participants throughout this proceeding, serving as the principal representatives of state and local government public

¹ The *Supplemental Order* supplements the Commission's *Report and Order*, FCC 04-168 (released August 6, 2004)(hereinafter "*Report and Order*").

² The Public Safety Organizations are filing this Petition now, rather than waiting until 30 days after Federal Register publication, with the hope that the FCC will resolve the issues raised herein quickly and avoid delay in implementing 800 MHz rebanding.

safety licensees operating in the 800 MHz band. The Public Safety Organizations helped formulate the “Consensus Plan” that provided the basis of much of the Commission’s action in this proceeding, and have continued to work together with all interested parties to ensure fair, efficient, and effective implementation of procedures to eliminate interference.

The basic solution to interference proposed by the Consensus Plan, and included in the *Report and Order*, is a reconfiguration of the 800 MHz band that requires most public safety agencies operating within the band to change frequencies. The Public Safety Organizations, and the overwhelming majority of their members, supported that approach based upon express conditions that the new frequency assignments would provide the same or better coverage and interference protection. A fundamental assumption throughout this process has been that applications to modify current licenses to implement rebanding would be subject to frequency coordination by FCC-certified frequency coordinators who are representative of the public safety community.³ Such coordination is essential to provide licensees with the satisfaction that they are indeed receiving comparable replacement frequencies, and to prevent disruption of the overall 800 MHz frequency licensing process.

Unfortunately, the Commission decided in the *Supplemental Order* that applications implementing rebanding would not require frequency coordination, stating that such coordination would be “superfluous” because “replacement channels must

³ The Commission has certified four entities to coordinate the 800 MHz public safety channels: the American Association of State Highway and Transportation Officials, the Association of Public-Safety Communications Officials-International, the International Association of Fire Chiefs/International Municipal Signal Association, and the Forestry-Conservation Communications Association.

conform to applicable Commission rules.”⁴ The Commission further noted that “coordination is unnecessary because the Transition Administrator will have taken coordination issues into account in determining that the new channel offers ‘comparable facilities.’”⁵ The Public Safety Organizations strongly disagree, and urge the Commission to reconsider the need for applications to be approved by certified frequency coordinators.

The Public Safety Organizations have the utmost faith in the impartiality of the Transition Administrator. However, as the Commission recognizes, the Transition Administrator is not a frequency coordinator, and frequency coordination capability was not listed among its proposed duties in the *Report and Order* or by the Transition Administrator Search Committee.⁶ Indeed, the Commission’s decision to utilize a Transition Administrator, rather than the “Relocation Coordination Committee” (which would have included certified frequency coordinators) proposed in the Consensus Plan, appears to have been based upon an expectation that applications would be subject to frequency coordination.⁷

The Transition Administrator, while highly qualified in many respects, lacks the decades of frequency management experience vested in the certified frequency

⁴ *Supplemental Order* at ¶¶60-67. Of course, *all* FCC applications must conform to FCC rules.

⁵ *Supplemental Order* at note 139. The Commission did add that it expects “that the Transition Administrator will enlist the assistance of the relevant Commission-certified frequency coordinator in instances in which coordination issues arise.” *Id.*

⁶ *Report and Order* at ¶¶195-196; Transition Administrator Search Committee, “Request for Statements of Interest” <http://www.tasc.utc.org/>

⁷ *Report and Order* at ¶200 (“In sum, we believe that reliance on the expertise of our existing frequency coordinators, together with our use of the services of an independent Transition Administrator is preferable to the Consensus Parties’ proposed RCC and multiple committees”). In a footnote, the Commission added that “we strongly encourage frequency coordinators to complete any necessary review within thirty days.” *Id.* at note 520.

coordinators. Nor does the Transition Administrator have the coordinators' ready access to license databases, frequency management tools, and high-volume application processing procedures and staff. The coordinators have well-developed methods to manage the flow, processing and screening of applications, which reduce substantially the burden on applicants and Commission staff. Moreover, frequency coordinators, especially in the public safety pool, look beyond mere mileage separation in recommending and reviewing frequency assignments. They often examine terrain factors (essential in many regions) and utilize state-of-the-art propagation analyses to maximize spectrum efficiency while preventing dangerous interference. The coordinators' most important consideration is maintaining and improving public safety communications capability. That priority flows from the coordinators' unique status as direct representatives of public safety licensees.

Thus there are two key reasons why re-banding applications must be subject to frequency coordination. First, coordination provides licensees, especially those in public safety, another level of protection to ensure that the rebanding process will not diminish vital public safety communications capability. Second, the coordinators provide efficient application processing mechanisms that can speed the re-banding process while ensuring the integrity of the ongoing application and database procedures.

On the first issue, the Commission appears to believe that the Transition Administrator alone will provide licensees with the comfort they need to ensure comparable facilities. This would presumably occur either through the Transition Administrator's approval of overall frequency plans for a region, or through its approval of negotiated agreements between Nextel and specific licensees. However, both

scenarios potentially place public safety licensees at a disadvantage, absent a more substantial role for certified frequency coordinators.

The overall frequency plan for a region will not always meet the needs of individual licensees (particularly for 806-809/851-854 MHz channels for which there is no precise replacement channel specified in the rules). Furthermore, the Transition Administrator will need to rely heavily upon Nextel in creating or approving frequency plans, as Nextel controls all of the replacement channel assignments. Thus, Transition Administrator approval of the frequency plan will not, by itself, provide impacted public safety licensees with the necessary assurance that they are receiving truly comparable channels. Furthermore, no frequency plan, regardless of its origin, will be able to anticipate the peculiarities of specific radio system designs or local propagation characteristics.

Final frequency assignments (other than for NPSPAC) will be addressed in many cases through direct negotiations between licensees and Nextel, with agreements subject to Transition Administrator approval. However, most public safety licensees will be at a disadvantage in those negotiations, as they lack the technical expertise to judge whether proposed replacement channels are appropriate. They are accustomed to relying upon their representative frequency coordinators to provide that level of assurance. While some public safety agencies will, in any event, choose to retain technical consultants to provide advice on the frequency assignments, agencies should not be forced to do so just to “even the playing field.” They should be able to proceed, with or without the assistance of a paid consultant, safe in the knowledge that the public safety frequency coordinator of their choice will also be reviewing the frequency assignment.

Aside from providing public safety licensees with the necessary comfort to proceed with rebanding, frequency coordination will also maintain the integrity of the license application process. One of the key responsibilities of the frequency coordinators is to review applications for completeness and errors, which greatly accelerates Commission processing. The coordinators also maintain license databases that must always be kept current to prevent inconsistent applications from being processed by different coordinators and/or approved at the Commission. These application processing functions are equally important for both the initial stage of rebanding (806-809/851-854 MHz incumbents) and for the rebanding of NPSPAC licensees.⁸

Careful application review will be especially important in the rebanding process, where just one application error could have a cascading effect on every other licensee in the region. Of particular concern is the Commission's statement that licensees will be able to submit applications directly through the Universal Licensing System (ULS) "auto-grant" process.⁹ How will the Commission know in those circumstances that an application is in fact consistent with the TA-approved frequency plan or the relevant NPSPAC plan? Such "policing" functions are normally performed by the certified frequency coordinators.

The Commission's decision in the *Supplemental Order* not to require frequency coordination may have been based upon a misconception that frequency coordination

⁸ NPSPAC applications already receive a more limited review (and are typically subject to lower coordination fees), as the applications have generally been approved by the relevant Regional Planning Committee. A key role of coordinators in that context is verification that applications are consistent with the relevant regional plan. The Public Safety Organizations would anticipate that an even more scaled down coordination process could be used for most NPSPAC channel re-banding applications. While frequency selection will rarely be at issue, coordination of such applications will be important to ensure application accuracy and update coordination databases.

⁹ See <http://wireless.fcc.gov/publicsafety/800MHz/bandreconfiguration/faq-licensing.htm>.

would somehow slow down the rebanding process. However, frequency coordination in the 800 MHz rebanding context need not be time-consuming. Prior to the *Supplemental Order*, public safety and other coordinators had already begun to develop procedures and protocols to streamline and expedite the rebanding coordination process, recognizing that much work will have already been done by the applicants, Nextel, and the TA to identify appropriate channels. However, the coordinators would still provide a critical “last review” on behalf applicants to ensure appropriate frequency assignments and application accuracy. That can be accomplished without slowing down 800 MHz rebanding.

CONCLUSION

Therefore, the Public Safety Organizations urge the Commission to reconsider its decision that applications implementing rebanding need not be approved by a certified frequency coordinator. Coordination is necessary to protect the interests of public safety licensees and to maintain the integrity of the licensing process.

Respectfully submitted,

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